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ABSTRACT

Until recently, American farmworkers have been poor and unorganized. As a result, they have been powerless to protect themselves from different forms of discrimination and exploitation. The rights of farmworkers have been traded off by social reformers in State legislatures as well as the Congress. In the last few years, this has begun to change because of intensive farmworker organizing efforts. This paper reviews the economic status of migrant farmworkers, placing major emphasis on their relationship to the law. Topics covered are: key Federal and State statutes affecting farmworkers; regulations; cases; the relationship of farmworkers to the justice system; economic disadvantagement and legal discrimination; and the effectiveness of agribusiness efforts. (NQ)

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HUMAN RELATIONS TRAINING FOR SOCIAL EDUCATORS, TEACHERS AND OTHER AGENCY PERSONNEL SERVING MIGRANT CHILDREN

A Grant Project of Florida International University

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SECTION: I-B: COMPONENT IV: The Economic and Legal Scene

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CURRICULUM STATEMENT

Section I-B
Component IV

I. INTRODUCTION

A. PURPOSE:

The purpose of this paper is to review the economic status of migrant farmworkers and their relationship to the law. Although pertinent economic data will be given, major emphasis will be placed on the law. All key Federal and State statutes affecting farmworkers will be discussed as will, to a lesser extent, regulations, case law and the relationship of farmworkers to the justice system.

B. A NOTE CONCERNING BASIC UNDERSTANDING:

The remainder of this paper will, for the most part, be a chronicle of economic disadvantage and legal discrimination. The perceptive reader will want to know why farmworkers have fared so poorly compared to the remainder of the population. Although many reasons could be given, it would not be over-simplification to sum them up with one word -- POWERLESSNESS.

In American society it is generally true that group benefits are accorded those who have managed to achieve some form of power. The rich have the power their wealth provides. Interest groups such as labor,

veterans, doctors, etc. have the political power afforded by their ability to use their numbers in concert and to a lesser extent their combined economic power. Some groups, have been able to achieve a measure of power by use of coercive (not necessarily violent) tactics. The Civil Rights Movement achieved important victories through the use of the coercive power of creative non-violence combined with effective legal advocacy.

Until recently, American farmworkers have been both poor and unorganized. They have therefor been powerless to protect themselves from the myriad forms of discrimination and exploitation that have been thrust upon them. Even their friends have been forced to sell them out. In the mid-1930's the National Labor Relations Act, which was the primary legislative goal of organized labor, passed only when its sponsors attracted the votes of farm state legislators by eliminating farmworkers from its coverage. The rights of farmworkers have been traded off by social reformers time and again, in State legislatures as well as the Congress. Only in the last few years has this picture begun to change due to the advent of intensive farmworker organizing efforts.

Powerlessness has prevented farmworkers from protecting themselves and from sharing in many of the economic and social benefits achieved by labor in the Twentieth Century. The question remains, who is it that has constantly prevented farmworkers from getting economic parity and receiving the equal protection of the law. The answer is obvious, agribusiness. Agribusiness has consistently used its political power to exclude farmworkers from the benefits of social legislation and its economic power to maintain a system of low wages and poor working conditions. The remainder of this paper will show how effective the efforts of agribusiness have been. It will also show that cracks are beginning to appear in the wall of resistance that has hitherto blocked farm worker aspirations. It is more than likely that the wall will soon be breached.

II. FARMWORKER ECONOMICS

One of the most difficult tasks facing anyone who wishes to learn or teach about farmworkers in Florida is to obtain reliable demographic and economic data. Data sources often do not collect information that is deemed relevant. Different sources use different definitions and as a result comparisons of data cannot be made. Where

comparisons can be made the results are often at such variance that the reliability of the data must be seriously questioned. The statistics I have set forth below are the most recent and the most reliable available to me. Unfortunately, I have strong reservations about some of the figures. Where this is the case, I have so indicated.

A. AGRIBUSINESS.

In terms of income generated, agriculture is Florida's most important industry. Florida's agriculture has shown the fastest growth rate of any State in recent years, despite the reduction in crop land along the lower East Coast caused by urbanization. In 1969, Florida ranked first in the Nation in citrus production,[1/] second in vegetable crops and greenhouse-nursery products, fourth in income from all crops, and twelfth in total farm income.

Farm employers with gross sales of $40,000 or more in 1969 accounted for 52% of all farm employers and 91% of total farm payroll. Less than 2% of agri-

1/ Polk and Lake Counties alone outproduce California, Texas and Arizona combined.

cultural employers in Florida are corporations with more than ten stockholders, but the 83 corporations in this category account for 17% of total agricultural payroll.

These figures tend to mask the true extent of economic concentration in Florida agribusiness. Some large corporations, such as Tropicana, own very little land themselves. Instead, they contract for the production of numerous small grove owners. The large corporation then arranges to harvest the crop. This is generally accomplished through the use of farm labor contractors, commonly called crew leaders. For statistical purposes the contractors are considered the employers of the farmworkers. But the economic reality of the situation is that the large corporation controls the system. It determines how much the contractor will be paid and therefore, ultimately, the compensation received by his workers.

Large public corporations represent only one form of economic concentration. There are a number of huge agricultural enterprises owned by individuals or families. These are multimillion dollar businesses that cultivate thousands of acres. Often, the large

owner will, for various reasons, divide his operations among several different corporations, thereby further distorting the statistics of concentration. These great family plantations are a far cry from the traditional forty acres and a mule.

The following companies account for approximately 60% of the citrus products-concentrate-juice and fresh fruit - produced in Florida.

Ben Hill Griffin (Private operation)

Coca-Cola (Minute Maid)

Lykes Corporation (Lykes Pasco and Youngstown Steel Corporation)

Tropicana (Publicly owned -- dominates the chilled juice field)

Citrus World (Donald Duck)

Adams (Royal Crown Cola)

H. P. Hood (Boston Milk and Ice Cream firm)

Kraft (National Food Conglomerate)

General Foods (Bird's Eye)

Libby-MacNeill-Libby (Owned by Swiss-based Nestle)

Stokely Van Camp (National Food Conglomerate)

Gulf and Western Corp. (Huge conglomerate - owns Paramount Pictures)

DiGiorgio (Large California grower)

Connecticut General Life Insurance Co.

B. DEMOGRAPHIC CHARACTERISTICS OF FARMWORKERS

1. Age

Farmworkers are quite evenly distributed over five year age groups from age 16 through 60, with about 10% included in each five-year group. There is a slight bulge in the 40-44 year old group. The figures indicate that only 4/10ths of 1% are under 16. I believe this statistic greatly underestimates the extent of child labor.

2. Sex

The Florida farm labor force is composed of 70% male workers and 30% females. The female segment is considerably more seasonal than the males. 82% of the male workers participate in the labor force 52 weeks of the year compared to 56% of the females.

3. Education

The education level of farmworkers in Florida is very low. 60% of the workers have been found to have an 8th grade education or less while 4% had no formal education. For the population as a whole the figures are 28% and 2%. One study found that the farmworker drop-out rate accelerates significantly as low as the 6th grade. Interstate migrants tend

to have less education than farmworkers as a whole.

4. Migratory Status

A recent survey indicates that 70.9% of farm workers do not migrate at all. 3.5% migrate only within Florida and 25.5% migrate to locations outside of the State.

4. Ethnic Groups

The survey referred to in subsection 4 indicates that the ethnic composition of farmworkers is as follows:

White	32.9%
Black	56.0%
Puerto Rican	3.1%
Mexican	6.4%
Other	1.6%

I believe that the number of whites in the farm labor force has been overestimated and the number of Mexicans understated. A prior study of migrants only found about 30% to be Spanish-speaking. The current study indicates interstate workers are composed of 17.1% Mexicans and 6.5% Puerto Ricans.

C. ECONOMIC CHARACTERISTICS OF FARMWORKERS

The study previously referred to estimated that between November 1970 and February 1971 there were 66,778 farmworkers in Florida. The 1970 census found 60,747 persons classified as "farm laborers and foremen." I believe both these sources underestimate the size of the farmworker force. A University of Florida report estimated that 138,500 workers were employed in Florida agriculture during peak months in 1968, with about 62,300 workers in slack periods. The report projected a peak labor requirement of 144,000 workers for 1975.

One source states that the average annual hired earnings of farmworkers in Florida was $3,764 in 1970-71. They worked 46.5 weeks to earn this income. The average farmworker was out of the labor force for four weeks and was in the labor force but unemployed for 1.5 weeks. The statistics do not measure underemployment, a factor that I believe causes great economic harm to farmworkers.

The figures just cited are much higher than those reported for the U. S. hired farm labor force. Inasmuch as wage rate statistics for Florida show that Florida

farmworker wage rates are below the national average, one must conclude that Florida workers have greater employment than other workers or that the statistics are optimistic.

Workers who did farm work only earned $3,728 in 1970-71 while those who did some non-farm work as well earned $3,926. Employees of farm employers who did no farm work, i.e. bookkeepers, drivers, etc., earned $4,311.

Many individuals in the general work force receive various forms of remuneration other than money. For many people loss of such benefits would be considered worse than a reduction in pay. Only an insignificant number of farmworkers receive such common benefits as insurance, sick leave and paid vacations.

Even the optimistic income estimates just presented show that economically, Florida farmworkers are severely disadvantaged. Wages are so low that even under a 1972 union contract with Coca-Cola, which caused a substantial increase in worker income, a large percentage of hourly workers were eligible for food stamps despite working a 50-hour week during the citrus season.

Pressing in upon the workers are the twin specters of automation and reduced farming, especially in the South Florida vegetable areas. On the bright side is

the increased awareness of the workers that their labor ought to earn them a decent share of the economic pie.

III. THE LAW AND FARMWORKERS

> The law in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.
>
> Anatole France

Farmworkers suffer not only the inequality before the law that is inevitably caused by poverty, but they also suffer from positive abuses designed to deny them benefits otherwise available to most persons in the work force. This section will, for the most part, deal with laws designed primarily to affect farmworkers, either by exclusion or inclusion. It will also deal with some legal problems peculiar to farmworkers and with their relationship to the justice system. Although statutes do not, by any means, constitute the whole or even most of the institution known as the "law" they will here be given primary emphasis.

A. FEDERAL LAW

1. The Farm Labor Contractor Registration Act.

   Every person acting as an independent farm labor contractor in interstate commerce is required to obtain a "Certificate of Registration" from the U. S. Secretary of Labor. In Florida the certif-

icate is obtained from the Florida State Employment Service which, although a State agency, is almost entirely Federally-funded.

Under the Act a "farm labor contractor" is "... any person who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes or transports ten or more migrant workers at any one time in any calendar year for interstate agricultural employment." Certain persons are exempted from coverage.

Among the Act's provisions are requirements that the contractor ascertain and disclose to each worker at the time of recruitment information regarding the area of employment, the crops and operations on which he may be employed, the transportation, housing and insurance to be provided to the workers, the wage rates to be paid and any charges to be imposed by the contractor. The Act has a procedure for revoking a contractor's license and provides for criminal penalties.

Although the Registration Act has been law for more than ten years there have been few prosecutions of violations and fewer convictions. As

is often the case with laws designed to protect farmworkers, enforcement has been almost totally absent. Recently, enforcement responsibility has been shifted to the Wage and Hour Division of the Department of Labor. Hopefully, enforcement will be stepped up. Amendments strengthening the Act and providing better means of enforcement have been introduced in Congress.

2. Fair Labor Standards Act (FLSA)

The FLSA when passed in 1938 provided a minimum wage rate for most employees but expressly excluded farmworkers. In 1966 the Act was amended to extend minimum wage coverage to some farmworkers. It is estimated that only 36% of all farmworkers are covered.

Only employers using 500 man days of agricultural labor during any quarter of the preceding calendar year are covered. There are other exemptions from coverage, the most important of which pertains to commuting piece workers.

The minimum wage for farmworkers is $1.30 per hour compared to $1.60 for all other covered workers. All farmworkers are excluded from the

overtime pay provisions of the Act. Its child labor provision prohibits children from working in the fields only when school is in session.

Employers are required to keep certain pay records. Recent court decisions have held that where both the farmer and the labor contractor exercise control over farmworkers, both are responsible for maintaining the required records. The substance of these decisions have been incorporated into regulations published in the Federal Register.

Although some enforcement has occurred it has been sporadic and less than vigorous. Attempts have been and are continuing to be made to end the Act's discrimination against farmworkers.

3. Social Security

Most farmworkers are covered under the Social Security Law, although coverage is not precisely the same as for other workers. However, the Act provides that in the absence of a written contract to the contrary, the labor contractor is presumed to be the worker's employer.

This provision is not a problem where the grower pays the workers directly, even though he uses a contractor. Under this circumstance growers almost universally pay the Social Security. Problems arise where the contractors pay the workers, especially when the payment is in cash. Frequently, the contractors do not pay the Social Security tax to the government thereby leaving the workers without funded accounts. There are procedures for reconstructing the workers' records and thereby providing for a funded account, but these are difficult. Generally workers require professional help to obtain benefits when they have been cheated by contractors. Sometimes the contractors withhold the Social Security money from the workers' pay but do not pay it to the government.

4. Interstate Commerce Act (ICA)

Originally the ICA required the Interstate Commerce Commission "to establish for carriers of migrant workers by motor vehicle reasonable requirements with respect to comfort of passengers, qualifications and maximum hours of service of

operators, and safety of operation and equipment." These responsibilities have since been transferred to the Federal Highway Administrator.

Regulations have been promulgated, but they are enforced even less than the requirements of the Registration Act.

5. Wagner-Peyser Act.

This Act establishes the U. S. Training and Employment Service in the Department of Labor to promote and develop a national systam of employment offices for the purpose, among others, of maintaining a farm placement service. The State Employment Services are operated by the various State governments on Federal funds and under the supervision of the Department of Labor.

Regulations promulgated by the Secretary of Labor provide a series of protections for farmworkers. In recent years workers have not been recruited into Florida through the farm placement system, presumably because of the requirement that housing facilities be available

that meet certain minimum requirements.

Farmworkers throughout the country have accused the various State Employment Services of various forms of discrimination, of failing to protect the workers from violations of the regulations and of other laws, and of failure to provide farmworkers with the same range of employment services as are provided to urban workers. Two Federal Court suits, one in Washington, D. C. and the other in Miami, seek to force changes in the Employment Service.

Another case, Gomez vs. Florida State Employment Service, established the right of farmworkers to bring private suits to enforce the protections provided to them by the Wagner-Peyser Act. Gomez is one of the landmark farmworker cases and has been extensively cited in other cases, both in and out of the farmworker field.

6. The Sugar Act

This law provides for money payments by the Secretary of Agriculture to sugar producers. These payments are conditional on the producers paying minimum wages set by the Secretary of Agriculture and avoiding use of child labor.

The Secretary of Agriculture annually issues regulations setting minimum wage rates and other conditions of employment. The regulations rarely change from year to year except that the wage is usually raised in small amounts each year. Currently, it is $2.15 per hour in Florida.

Many domestic workers in other States are covered by the Sugar Act, but in Florida most of the workers that come within its ambit are British West Indian cane cutters. The BWI's regularly accuse the sugar companies of underpaying them. Many observers believe there is substance to these complaints, but adequate proof has not as yet been forthcoming.

7. Immigration and Naturalization Act (INA)
Under this law aliens cannot come into the country for the purpose of performing agricultural labor unless the Secretary of Labor certifies certain facts to the Secretary of State and the Attorney General. Among these facts are that domestic workers are not available and that the importation of foreign workers will not adversely affect the wages and working conditions of American workers.

Many illegal aliens come into the country to work in agriculture, mostly from Mexico. The problem is greatest in the States that border Mexico, but it is also growing in Florida. Illegal aliens have been imported to help stop unionization in California. Little has been done to stop this practice.

In Florida, the procedures of the INA must be invoked before the BWI cane cutters can be brought into the State. Various farmworker groups have argued that the system has been carefully rigged so that domestic workers will not be attracted to the sugar industry. This issue was raised in a hastily put together law suit in 1972, but the Court ruled against the plaintiffs. There is much to be said for the arguments of the farmworker groups and a different outcome might result from a more carefully prepared suit or by a more rigorous enforcement of the regulations by Federal officials.

8. The Food Stamp Act

The Food and Nutrition Service of the U. S. Department of Agriculture issues food stamps to State Welfare Agencies for sale through local outlets to eligible poor persons for less than the face value of the stamps. Eligibility standards are nationally

set, but problems arise due to the peculiar nature of agricultural employment.

Those farmworkers that are paid in cash often cannot prove how much income they have made or the number of days during the month that they have worked. This creates problems relating to eligibility, the purchase price of the stamps and the requirement that persons employed less than 30 hours per week register for work with the Employment Service.

Under a so-called "pilot program" Florida has been authorized to follow a procedure that severely discriminates against farmworkers. Local food stamp offices are authorized to develop an average standard income for itinerant farmworkers. This is a compilation of the number of days work that was available for the previous month multiplied by the average daily wage for the area. According to the regulations a household's benefits will be terminated at the end of any month it does not comply with the average standard income.

The result is a mechanical system that fails to consider the individual household situation. It operates purely for the convenience of the bureaucracy. A law suit has been brought in the United

States District Court for the Southern District of Florida challenging this device.

There is great potential for abuse in the work registration requirement. As presently interpreted it can require workers to take employment for below market wages, so long as they are above the $1.30 minimum wage.

9. National Labor Relations Act

Farmworkers are excluded from the coverage of this law which regulates the relations between management and organized labor.

B. FLORIDA LAW

1. Workmen's Compensation

Under the Florida Workmen's Compensation Law the term "employment" includes "all private employments in which one or more employees are employed by the same employer." This means that with very few exceptions all businesses in Florida having one or more employees must provide Workmen's Compensation Insurance. The largest single exception applies to farmworkers.

The law states that the term "employment" shall not include:

> Agricultural labor performed on a farm in the employ of a bona fide farmer or association of farmers, who employs

> nine or less regular employees and who employs less than twenty other employees at one time for seasonal agricultural labor that is completed in less than thirty days, provided such seasonal employment does not exceed sixty days in the same calendar year. The term "farm" includes stocks, dairy, poultry, fruit, fur-bearing animals, fish and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foremen, timekeepers, checkers, and other farm supervisory personnel.

If the reader is confused by this definition, do not despair, you are not alone. Essentially, what the statute does is exempt from coverage small and medium size farms. Although there is no rational basis for exempting a business that may have as many as nine permanent employees, when the corner shoe repair shop run by one or two persons is not similarly treated, the statute is an improvement over previous law.

Prior to January 1, 1972, all farmworkers employed by a farmer or bona fide farmers organizations were excluded from coverage. It should be noted that under both the prior statute and the present law, farmworkers employed by labor contractors were covered. The sad fact is, however, until quite recently very few contractors

purchased the required insurance. This is beginning to change as a result of the efforts that are now being made to enforce the Florida Farm Labor Registration Law. (See subsection 7 below).

It is interesting to note that the Florida Supreme Court has held that under prior law, field foremen, timekeepers, checkers and other farm labor supervisory personnel were not considered to be agricultural workers for purposes of Workmen's Compensation and therefore growers had been obliged to cover them. The new statute exempts these persons along with other agricultural workers. The provision was written by lobbyists for agribusiness. Apparently, denial of an elementary employment benefit was the way agribusiness thanked those it relied upon as its first line of defense against farmworkers.

2. Unemployment Compensation

All Florida farmworkers, regardless of the size of the farm that employs them,[1] are excluded from coverage under the Unemployment

Compensation Law. Agricultural employers are permitted to elect to cover their workers and a few large growers have chosen to do so. The vast majority of farmworkers do not receive this protection.

Several years ago an attempt to require coverage by Federal law nearly succeeded. It was blocked by agribusiness in a last ditch effort. The argument that carried the day was that not enough was known about the possible adverse effect such a requirement would have on agribusiness. Surprisingly, the Congress directed the Department of Labor to undertake a study of the question and appropriated money for the purpose.

In response, the Department of Labor put together a consortium of Universities, including the University of Florida, to look into the matter. After an exhaustive study it was concluded that Unemployment Compensation was within the ability of agribusiness to pay. Despite this finding there does not seem to be a strong movement in the direction of extending the coverage to farmworkers.

3. Motor Vehicle Code - Transportation of Migrant Farmworkers.

The Florida Motor Vehicle Code provides detailed safety standards for vehicles used to transport migrant farmworkers. Unfortunately, the statutory definition of a migrant carrier contains an exception that creates a loophole large enough to drive the largest migrant bus through. Excluded from coverage under the law are"... the owner, the manager or a full-time employee of the owner or manager of the crops where such migrant farmworker is employed." Furthermore, the law applies only to "migrant farmworkers" who are defined as a "... person employed in the planting, cultivating or harvesting of agricultural crops who is not indigenous to or domiciled in the locale where so employed."

In practical terms the only persons protected by this law are migrant farmworkers who are transported by labor contractors. Excluded are all non-migrant farmworkers and all migrants who are transported by growers or those in their employ. Since Florida is a home-base State and many of the farmworkers who in fact migrate are

indigenous to the area, the scope of coverage is very small. Regardless of coverage, enforcement is practically non-existent.

4. Migrant Labor Camps

The legislature has required that the Division of Health of the Department of Health and Rehabilitative Services issue regulations "... to protect the health and safety of persons living in migrant labor camps, including provisions relating to construction of camps, sanitary conditions, light, air, safety, protection from fire hazards, minimum living space per occupant, equipment, maintenance and operation of the camp and such other matters as it may determine to be appropriate or necessary for the protection of the life and health of the occupants." The law requires that "any unit of a camp used for family residential purposes shall contain within such unit provision for a potable water supply."

Any place that is "... established, operated, or used as living quarters for five or more seasonal, temporary or migrant workers, whether or not rent is paid or received in connection with the use or occupancy of such premises ..." is

deemed to be a migrant labor camp. The regulations that govern migrant labor camps are the same ones that govern recreational camps. All migrant camps must be inspected and licensed by the Division of Health.

Under the present regulations structures existing prior to their issuance need not have potable water delivered to each unit having a family despite the mandate of the legislature. Privies are permissible and the place housing the toilets need not be in the same building as the workers' living quarters, although it should be within 200 feet of the door. One toilet or privy must be provided for each 15 women and each 20 men. There must be one urinal for each 25 men.

For many years enforcement of the regulations was lax. Much more stringent enforcement has occurred in the last several years. The two largest privately-owned camps in Dade County were demolished in 1973 as a result of a new enforcement policy. Similar closings have taken place in other counties. Despite the regulations, the largest typhoid epidemic

to occur in the United States since the 1920's ravaged the recently constructed South Dade Labor Camp in February-March, 1973. The disease germs, which sickened 200 people, were transmitted through the camp's water supply.

5. Field Sanitation

Florida does not have a statute regulating sanitation in the fields similar to that which exists in California and several other states. As a result, there is no direct statutory authority that requires that toilet, drinking and washing facilities be provided to the workers while they are harvesting the State's bountiful crops. However, the Department of Health has issued regulations governing sanitary facilities for places of employment.

The regulations require that, "every person, firm, or corporation employing one or more persons must provide adequate sanitary facilities for such employee or employees; and when ten or more persons are employed at the same establishment then equal facilities shall be provided for each sex." The regulations go

on to describe the facilities that must be provided at places of employment.

There is no reason to distinguish a field or grove from any other place of employment and it would seem incontestable that the regulations ought to be applied to such places. Yet, such is not the case. Some years ago a case was brought against a farmer in Dade County. It was lost because of some failure of evidence. This loss apparently was the signal for total inaction on the part of the Division of Health. Some growers voluntarily supply sanitary facilities, but they are a very small minority. The United Farm Workers Union contract with Coca-Cola requires such facilities.

6. Child Labor

Most of the safeguards enacted to protect children from abuses by employers do not apply to "agricultural labor". The only protections that children have in connection with agricultural work is that they cannot be employed on a farm when school is in session and they cannot work "in connection with power driven machinery" or spray "... insecticides

or other toxic substances determined to be poisonous to human beings through skin contact or inhalation ...." All other protections, including those pertaining to age, hours of work, working conditions and employment certificates, do not apply.

In Florida it would not be unlawful for a seven year old to work from the moment school is out until it opened the following day, without time out for rest, relief or meals. In nearly all other occupations it is illegal to employ children under 12 in any circumstances.

7. Farm Labor Registration Law

In 1971 the Florida Legislature passed the Farm Labor Registration Law. It, like its Federal counterpart, the Farm Labor Contractor Registration Act, seeks to regulate the contractors, not growers.

The law defines "farm labor contractors" and provides that no person shall act as one unless he has been issued a Certificate of Registration and unless the certificate is in full force and effect and is in his possession.

Contractors are required to perform nine duties as enumerated in the statute. These include, promptly

paying to the individuals entitled thereto all money entrusted to the contractor by third persons, complying with all legal agreements between the contractor and third persons, providing vehicle insurance for all vehicles used in their business and providing workers with itemized wage statements.

Contractors are prohibited from making false statements in connection with their registration applications or concerning the terms, conditions or existence of employment. Unfortunately, due to a legislative oversight, a violation of these fraud provisions is not a criminal act. It is a misdemeanor of the second degree for a contractor to violate any of the nine duties or for a grower to employ a contractor who is not registered.

The statute contains a gigantic loophole designed primarily to protect growers. "The revocation, suspension of, or refusal to renew any permit ... will not render any then current and valid contract invalid nor affect the terms of such contract for the duration of the growing season then in progress." This provision could well render ineffective the whole licensing scheme.

Although the statute authorizes the issuance of rules and regulations necessary to enforce and administer it, efforts to get such rules and regula-

tions issued were frustrated for nearly two years. After a great deal of pushing and probing, primarily by the Migrant Services Foundation, Inc., a comprehensive set of regulations was issued in early January 1974. The following month four enforcement officers were hired. As of this writing only a small number of the contractors operating in Florida were registered, but compliance had begun to pick up at the end of 1973 when it became apparent that serious enforcement efforts would soon take place. Currently, a Bill has been introduced into the State Legislature that would update and improve the registration law in a number of ways.

8. Access to Labor Camps

The number of farmworkers living in migrant labor camps has steadily decreased over the last decade. Nevertheless, a significant number of people still reside in such places. It sometimes occurs that the camp owner tries to prevent the workers from receiving visitors or tries to determine which visitors will be allowed to visit the camp.

Within the last several years lawyers, newspaper reporters, ministers, legal services investigators and union organizers have been barred from

various labor camps and a few arrests have resulted. In February 1972, a suit was brought in Federal Court in Miami seeking to enjoin a sugar company from denying visitors access to its labor camp. The case was lost in the lower Court, but the plaintiffs appealed. In May 1973 the Appellate Court reversed the District Court, finding that their was a constitutional right of access.

In a criminal case arising out of the same incident that gave rise to the Federal suit, a lower Criminal Court in Palm Beach County came to the same conclusion. A State Circuit Court in Collier County has also declared a constitutional right of access, but the case has been appealed because of conditions placed on the right that the plaintiffs believe are too restrictive. A decision may be forthcoming by the Fall of 1974.

9. Relations with the Justice System

If there is one point upon which farmworkers agree, it is that wherever they may be, they are mistreated by the police and the courts. The relationship of farmworkers to the justice system is a never ending source of frustration, irritation, economic

drain and sometimes tragedy.

Farmworkers are often harassed by police, verbally abused (including racial slurs), arrested for petty infractions that would not be the cause of police intervention if committed by the wealthy, falsely accused and not infrequently subjected to brutality. They are often tried without having been fully apprised of their rights and are given fines or sentences disproportionate to their crimes. It is not unusual for a Spanish-speaking migrant to be tried and convicted without having understood what is going on. Farmworkers complain that judges take the word of the policy regardless of circumstances or the number of farmworker witnesses who may testify for the defense.

They state that judges sometimes patronize, embarrass or demean them. In many rural areas farmworkers do not trust their defense lawyers. They believe that the defense lawyer is part of the establishment and is not interested in vigorously representing them.

There are numerous instances when the police have been used by creditors, especially landlords, to collect civil debts and illegal searches and

seizures have occurred in countless numbers.

In most rural areas there are no lawyers available to help a farmworker who has a non-criminal case but cannot pay a fee. Where free legal services are available, there are rarely enough lawyers, the lawyer turnover is high and, because of the pay and working conditions, the legal services lawyers, though bright and aggressive are generally inexperienced. It is not unusual for lawyers representing farmworkers to be looked down upon by members of the Bench and Bar and to suffer various forms of harassment.

10. HB-74

Article I, Section 6 of the Florida Constitution provides that "the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization."

In 1973, House Bill 74 was introduced into the Florida House of Representatives. This Bill sought to implement the so0called "right to work" section (farmworkers believe it is a right to exploit section) of the Florida Constitution by, among other things, providing criminal penalties for violation. Section 6 of the proposed law was

aimed specifically at farmworkers. If passed, it would have outlawed the union hiring hall for farmworkers and farmworkers only. No other union, except the United Farm Workers, would have been denied the right to have a union hiring hall.

Loss of the hiring hall would have been the equivalent of loss of their union, so the farmworkers set out to defeat the Bill. Experienced political hands advised them to concentrate only on Section 6, which affected them, and not take on the whole Bill which was expected to pass easily.

This practical advice was not heeded and almost alone the farmworkers began to work for the defeat of HB-74. What followed was one of the greatest expressions of grass roots political sentiment in the history of Florida. Nearly 20,000 letters and telegrams descended upon key law makers. Delegations of farmworkers traveled to Tallahassee, not only to testify before the House Commerce Committee, but also to quietly talk to their local representatives. In addition, farmworkers and their friends visited the law makers when they were at home in their districts.

The result was the defeat in Committee, not only of Section 6, but of the whole Bill. A political miracle had been accomplished by the poorest people in

the State. Without great wealth, without much education and with practically no political experience, they defeated a well-financed coalition of agribusiness groups that was affiliated with an even larger national anti-farmworker union movement.

The struggle over HB-74 was the first occasion upon which Florida farmworkers participated in the political system as a group. Their success will not be lost on either the farmworkers or their opponents.

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